IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4731 of 1992
with
CIVIL APPLICATION No 2437 of 1992
with
CIVIL APPLICATION No 338 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE D.K.TRIVEDI
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SHYAMJIBHAI KALIDAS PATEL

Versus

SURAT MUNICIPAL CORPORATION

Appearance:
MR YN OZA for Petitioner No. 1
MR PRASHANT G DESAI for Respondent No. 1-2
(MR PB MAJMUDAR) for Respondent No. 1-2
GOVERNMENT PLEADER for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE D.K.TRIVEDI
and

HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 13/11/2003

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE D.K.TRIVEDI)

In view of our order passed on 12.11.2003, xerox copy of the letter issued by Executive Engineer, Varachha, Surat Municipal Corporation addressed to Advocate Shri Prashant G. Desai at Ahmedabad with the copy of the document on the stamp paper executed by Shamjibhai Kalidas Patel - the present petitioner dated 17.9.2002 is produced. The same is taken on record. A copy of which were duly furnished to Ms. Shah, learned advocate for Mr. Oza, learned advocate for the petitioner.

2. In view of the statement made by petitioner in letter dated 17.9.2002 to the effect that he has handed over the required land under the Town Planning Scheme from the Final Plot No.8 to the respondent Corporation, nothing survive in this petition. Accordingly, petition is disposed off in above terms with no order as to costs. Rule is discharged accordingly.

3. In light of the fact that main Special Civil Application being Special Civil Application No. 4731 of 1992 is disposed off, Civil Application No. 2437 of 1992 and Civil Application No. 338 of 1995 are not required to be entertained and accordingly, both the Civil Applications are disposed of with no costs.

(D.K. Trivedi, J.)

(Sharad D. Dave, J.)

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ORDER BELOW NOTE FOR SPEAKING TO MINUTE :-

DATE : 15.11.2003.

Heard Ms. Sonal Shah, learned advocate for Mr. Oza, for the petitioner and Mr. Purohit, learned advocate for Mr. Prashant Desai, for the respondent Corporation.

2. We have disposed off the above petition in light of the document produced by Mr. Desai for the Corporation i.e. the letter issued by the Executive Engineer, Surat Municipal Corporation to Mr. Prashant G.

Desai, enclosing the xerox copy of the affidavit dated 17.9.2002 filed by the present petitioner Shri Shyamjibhai Kalidas Patel under the caption "Kabja Pherphar No Karar". After the said petition was disposed off, Ms. Shah, learned advocate for Mr. Oza has filed this note for speaking to minutes and copy of which was duly furnished to Mr. Desai by highlighting that while disposing off the petition, in respect of the possession of the plot, wrong Number is inadvertently mentioned in para 2 of the judgement and as per the affidavit filed by the petitioner, which we have already referred to, the petitioner has handed over the possession of required portion of original plot No. 4/A to the Corporation and in return the Corporation has handed over the portion of Final Plot No. 8 that had been allotted to the petitioner under the Town Planning Scheme and accordingly, that part of the judgement in para 2 is required to be corrected. Mr. Purohit for Mr. Desai for Corporation has in term confirmed the same and a joint request is made that the judgement be accordingly corrected.

3. Accordingly, in para 2 of the judgement passed by us on 13.11.2003 we have inadvertently mentioned wrong number in respect of the plot and the same is accordingly, required to be corrected.

4. Accordingly paragraph No.2 of the judgment dated 13.11.2003 is to be read now as under :-

"2. In view of the contents of affidavit dated 17.9.2002 it is clear that the petitioner has handed over the possession of required portion of original Plot No.4/A to the Corporation and in return the Corporation has handed over to the petitioner the portion of Final Plot No.8, which had been allotted to the petitioner under the Town Planning Scheme No.8. Therefore, nothing survives in this Petition. Accordingly, petition is disposed off in the above terms, with no order as to costs. Rule is discharged accordingly."

5. Accordingly, note for speaking to minutes is disposed off.

(D.K. Trivedi, J.)
Dt:15.11.2003
(Sharad D. Dave, J.)
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